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Attorneys for Third-Party Defendant Ashley Miron Leshem

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**IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH, CENTRAL DIVISION**

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**CAPANA SWISS ADVISORS AG, a Swiss  
corporation; and AMERIMARK  
AUTOMOTIVE AG, a Swiss corporation,**

**Plaintiffs,**

**v.**

**RYMARK, INC., a Utah corporation;  
NICHOLAS THAYNE MARKOSIAN, an  
individual; JOHN KIRKLAND, an  
individual; and VICKY SMALL, an  
individual,**

**Defendants.**

**MOTION FOR LEAVE TO FILE REPLY  
REGARDING EVIDENTIARY  
OBJECTIONS**

**RYMARK, INC., a Utah corporation; and  
NICHOLAS THAYNE MARKOSIAN, an  
individual,**

**Counterclaim Plaintiffs,**

**v.**

**CAPANA SWISS ADVISORS AG, a Swiss  
corporation; and AMERIMARK  
AUTOMOTIVE AG, a Swiss corporation.**

**Counterclaim Defendants.**

**Case No. 2:23-cv-00467-TS-CMR**

**District Judge Ted Stewart**

**Magistrate Judge Cecilia M. Romero**

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**RYMARK, INC., a Utah corporation; and  
NICHOLAS THAYNE MARKOSIAN, an  
individual,**

**Third-Party Plaintiffs,**

**v.**

**SHAEN BERNHARDT, an individual;  
ASHLEY MIRON LESHEM, an  
individual; DAVID HESTERMAN, an  
individual; NICOLAI COLSHORN, an  
individual; STEFAN KAMMERLANDER,  
an individual; ALEXANDER COENEN,  
an individual; MARTIN FASSER HEEG,  
an individual; AMERIMARK GROUP  
AG, a Swiss corporation; and  
PHILOMAXCAP AG, a German  
corporation,**

**Third-Party Defendants.**

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Pursuant to DUCivR 7-1(a)(9), Third-Party Defendant Ashley Miron Leshem (“Leshem”), through his counsel of record, submits this Motion for Leave to File Reply Regarding Evidentiary Objections. *See* DUCivR 7-1(a)(9) (“Unless ordered otherwise, the court will not consider additional memoranda.”).

### **RELIEF REQUESTED AND GROUNDS THEREFOR**

Leshem respectfully requests that the Court grant this motion and permit him to file a reply to Defendants and Third-Party Plaintiffs’ Response to Evidentiary Objections (Dkt. 261) (“Response”).

There is good cause for the requested relief because the Court and parties will benefit from Leshem being heard regarding Third-Party Plaintiffs’ Response because Third-Party Plaintiffs misrepresent Leshem’s objections, misapply the relevant authorities and evidentiary rules at issue, and improperly attempt to insert into their Response arguments that should have

been included, if at all, in their opposition to Leshem's motion to dismiss (Dkt. 256). Leshem's proposed Reply Regarding Evidentiary Objections is attached as Exhibit "1."

DATED this 6<sup>th</sup> day of May, 2025.

**MCNEILL | VON MAACK**

/s/ Christopher M. Von Maack

Christopher M. Von Maack

*Attorneys for Third-Party Defendant Ashley Miron  
Leshem*

**LAW OFFICES OF ANDREW B. PERETZ PA**

/s/ Andrew B. Peretz

Andrew B. Peretz (*admitted pro hac vice*)

*Attorneys for Third-Party Defendant Ashley Miron  
Leshem*

**CERTIFICATE OF SERVICE**

I hereby certify that I am employed by the law firm of McNEILL VON MAACK, 236 South 300 East, Salt Lake City, Utah, and that, pursuant to Rule 5(b) of the Federal Rules of Civil Procedure, a true and correct copy of the foregoing **MOTION FOR LEAVE TO FILE REPLY REGARDING EVIDENTIARY OBJECTIONS** was delivered this 6<sup>th</sup> day of May, 2025, via CM/ECF to all parties and counsel registered to receive email notices of filings.

/s/ Camille Coley